



Mr Kim Stapleton  
JDK Legal  
Level 5, 1 Castlereagh Street  
Sydney NSW 2000  
[k.stapleton@jdklegal.com.au](mailto:k.stapleton@jdklegal.com.au)

17 November 2016

Dear Mr Stapleton,

**APPLICATION NO:** 1-4777637008  
**APPLICATION FOR:** New Hotel Licence – General Bar  
(Application) with a Minors Area  
Authorisation (MAA Application)  
**PROPOSED TRADING HOURS:** Internal Area: Monday to Saturday  
10:00AM – 12:00AM, Sunday 10:00AM –  
10:00PM  
External Area: Monday to Sunday 10:00AM  
– 10:00PM  
**APPLICANT:** SHIRT BAR BARANGAROO PTY LTD  
**PROPOSED LICENSED PREMISES  
NAME:** Shirt Bar Barangaroo  
**PREMISES LOCATION:** Shop 7A, 100 Barangaroo Avenue,  
Barangaroo NSW 2000 (Premises)  
**ISSUE:** Whether to grant an application for a new  
hotel licence (general bar subcategory) with  
a minors area authorisation  
**LEGISLATION** Sections 3, 11A, 14, 16, 40, 45, 48, 121 of  
the *Liquor Act 2007*

**INDEPENDENT LIQUOR AND GAMING AUTHORITY DECISION - APPLICATION  
FOR NEW HOTEL LICENCE (GENERAL BAR) WITH MINORS AREA  
AUTHORISATION – SHIRT BAR BARANGAROO**

The Independent Liquor and Gaming Authority considered the Application at its meeting on 26 October 2016 and pursuant to section 45 of the *Liquor Act 2007* (Act), has decided to **grant** the Application for a new hotel (general bar) licence, subject to the following conditions:

## TRADING HOURS

1. Trading Hours:  
**Consumption on premises - indoors**  
Monday to Saturday 10:00AM – 12:00AM  
Sunday 10:00AM – 10:00PM
2. **Consumption on premises - outdoors**  
Monday to Sunday 10:00AM – 10:00PM
3. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 4.00 AM and 10.00 AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.
4. Consumption on premises  
Good Friday 12:00 noon – 10:00PM  
Christmas Day 12:00 noon – 10:00PM (liquor can only be served with or ancillary to a meal in dining area)  
December 31<sup>st</sup> Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later  
  
Note: Trading is also allowed after midnight into the early morning of Good Friday and Christmas Day if authorised by an extended trading authorisation. Trading must cease at the time specified under the authorisation. The latest time that can be specified is 5:00 AM.
5. The licensee or its representative must join and be an active participant in the local liquor accord.
6. The business authorised by this licence must not operate with a greater overall level of social impact on the well-being of the local and broader community than what could reasonably be expected from the information contained in the Community Impact Statement, the Application and other information submitted in the process of obtaining this licence.
7. Minors area authorisation: whole of premises.
8. The licence is authorised for the trading hours fixed by the Authority or such lesser hours as may be approved by the consent authority from time to time.
9. The premises must at all times be operated in accordance with the Plan of Management dated 19 September 2016 as may be varied from time to time in consultation with the Local Area Commander of NSW Police.
10. No drinks commonly referred to as shots, shooters, slammers, and/or bombs are to be sold or supplied after 10pm.
11. The premises are not to be themed or operated as a nightclub.

### CCTV footage on premises:

12. The Licensee shall maintain a CCTV system that meets the following minimum requirements:
  - (i) A camera must be located at the main entrance to the venue and positioned to record any person entering through this entrance. The CCTV recordings of this camera must be sufficient to enable an individual to be identified, beyond reasonable doubt, when:

- a. the person represents not less than 100% of the screen height, and
  - b. there is an unobstructed view of the person's face.
- (ii) In addition, CCTV cameras must be maintained throughout the premises with camera coverage to specifically record images of the following areas:
  - a. all other public entrances and exits, whether or not in use at the time,
  - b. staircases,
  - c. all portions of the floor area accessible to the public where entertainment is provided,
  - d. toilet external entrances,
  - e. all public accessible areas within the premise excluding toilets and accommodation rooms,
  - f. the footpath area directly adjacent to the premises, and
  - g. courtyard and smoking areas.
- (iii) The CCTV recordings of the cameras referred to in the preceding sub condition must be sufficient to enable the recognition of a person: A viewer must be able to say with a high degree of certainty whether or not an individual shown is the same as someone they have seen before, when:
  - a. the person represents not less than 50% of screen height, and
  - b. there is an unobstructed view of the person's face.
- (iv) Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.
- (v) Camera recordings must meet the standards set in this Condition at all times, either by way of camera positioning, camera shades or other environmental factors.
- (vi) Recordings must:
  - a. be in digital format,
  - b. record at a minimum of ten (10) frames per second, and
  - c. commence one hour prior to opening, and operate continuously until at least one hour after closing.
- (vii) The correct time, date and camera identification must be automatically embedded on all recordings and be able to be read when the image is played back on a different system without interfering with the view of the target area.
- (viii) Recordings should be retained for a period of 30 days before being reused or destroyed. The licensee shall ensure that no person is able to delete or alter any recordings within the 30-day period.

- (ix) When the venue is open and trading, at least one person shall be at the venue who is capable of accessing the CCTV system and is able to immediately review recordings and produce copies.
- (x) Immediate access to the CCTV system and the ability to review recordings is to be granted to NSW Police, LGNSW Inspectors or other regulatory officers upon request.
- (xi) The CCTV system shall be able to reproduce a copy of the recordings on Compact Disc, DVD or USB memory stick and must, upon request, be provided within one working day to NSW Police, LGNSW Inspectors or other regulatory officers.
- (xii) Prior to the commencement of trade each day, the CCTV system shall be checked to ensure the equipment is in full operating order. If, during the daily check or at any other time, it is discovered that the equipment is not in full operating order, the licensee is to notify the Local Area Commander of NSW Police or delegate within two hours. All reasonable steps must be undertaken to repair the system as soon as practicable.

### **SIGNAGE**

13. Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected in such a manner that it would be reasonable to expect that a person leaving the premises will be alerted to its contents.

The signage shall state:

***“Upon leaving please respect local residents by minimising noise”***

### **NEIGHBOURHOOD AMENITY**

14. The management of the premises:
- a. Shall ensure patrons do not crowd or loiter in the vicinity of the premises in such a manner that pedestrian movement is obstructed or hindered.
  - b. Shall ensure that the manner in which the business of the premises is conducted and/or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the management shall be responsible for the control of noise and litter generated by persons and/or premises operations. If so directed by Council, the Management is to employ private security staff to ensure that this condition is complied with.
  - c. Shall record in a Register full details of any disturbance complaint/s made by a person to management or staff in respect to the manner in which the business of the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s and any complainant details if provided.
  - d. Shall respond to any disturbance complaint/s in a timely and effective manner. All actions undertaken by management / staff to resolve such complaint/s shall be recorded in the Register.
  - e. An adequate queuing system for patrons must be implemented at the main entrance of the licensed restaurant so as to ensure that if patrons are queuing to gain entry they do not obstruct or impede pedestrian traffic flow.

## **CRIME SCENE PRESERVATION**

15. Immediately after the person in charge of the premises becomes aware of an incident involving an act of violence causing an injury to a person on the premises, the person must:
- a. Take all practical steps to preserve and keep intact the area where the act of violence occurred
  - b. Retain all materials and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by the NSW Police
  - c. Make direct and personal contact with the Local Area Command of NSW Police or his/her delegate and advise the Commander or delegate of the incident and
  - d. Comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.

The Authority also decided to grant, pursuant to section 121 of the Act, a related application for a minors area authorisation extending to the entirety of the Premises.

The Application has been granted subject to a proviso that the licence cannot be exercised unless and until the Authority has been provided with evidence that the premises at this location are complete and ready to trade, and the Authority has been notified of the appointment of a manager to the licence.

If you have any enquiries about this letter, please contact the case manager via email to [Santina.causa@ilqa.nsw.gov.au](mailto:Santina.causa@ilqa.nsw.gov.au)

Yours faithfully



Philip Crawford

**Chairperson**

For and on behalf of the **Independent Liquor & Gaming Authority**

## STATEMENT OF REASONS

### Material Before The Authority

1. The following is a summary only of the material and submissions before the Independent Liquor and Gaming Authority (Authority) for the purposes of publication of a statement of reasons, as soon as practicable, in a high-volume jurisdiction.
2. In making this decision, the Authority has considered the application for a new hotel licence – General Bar (Application) which was accompanied by an application for a Minors Area Authorisation (MAA), a community impact statement (CIS) and all submissions received in relation to the Application. As foreshadowed in Authority Guideline 6, the Authority has also had regard to relevant liquor licensing records and licence density data maintained by Liquor and Gaming NSW (LGNSW), Bureau of Crime Statistics and Research (BOCSAR) crime data and Australian Bureau of Statistics (ABS) socio-economic data pertaining to the local and broader communities sourced by licensing staff from publicly available sources. That material is listed and briefly summarised in the Schedule.

### Summary of Further Submissions

3. Submission dated 16 September 2016 made to the Authority by Mr Roy Chong, a resident of Barangaroo, commenting that “extending the trading hours and alcohol would go against the original DA” and contending that this business will cause significant noise disturbance.
4. Submission from the Applicant solicitor Mr Stapleton of JDK Legal dated 19 September 2016. This includes a Certificate of Advertising, registration of the business name, advice that the outdoor dining area forms part of the leased area and does not require a footway licence, an amended Plan of Management, advice that the primary purpose of the business will be a hotel and the area of the clothing business will be 15% of the total floor space and advice that the Applicant consents to a condition restraining exercise of the licence until evidence of completion of the premises is provided.
5. Submission from Senior Constable D. Marshall and Leading Senior Constable Juan Maruri, Sydney City Local Area Command (LAC) of NSW Police (Police), dated 30 September 2016. Police advise that they do not object to the Application and advise their Computerised Operational Policing System (COPS) database discloses no serious adverse incidents involving the Applicant contact, Mr Justin Marmot, in the past 10 years. Police note that there is a high density of licensed premises in this area of the City such as at King Street Wharf and Cockle Bay Wharf. Police note that the Premises is not located within the Sydney CBD Entertainment Precinct as defined by Schedule 1A of the Liquor Regulation 2008 but in close proximity to that precinct. Police provide alcohol related crime maps for the Sydney LGA for July 2015 to June 2016, noting a higher rate of assaults

occurring in the nearby suburb of The Rocks. Police submit that over the past two years the rate of alcohol related assault in the State suburb of Sydney at 5545.9 incidents per 100,000 persons compared to 415.9 incidents for New South Wales as a whole. Police submit that data from the Alcohol Related Crime Information Exchange (ARCIE) database for the Sydney Central Local Area Command indicates that during the period from September 2015 to August 2016, 49% of all recorded assaults and 36% of all recorded domestic assaults in this area were recorded as alcohol related. Police also provide a summary of a 2011 BOCSAR study “The Association Between Outlet Density and Assaults On and Around Licensed Premises” which found that assaults in the Sydney LGA were more likely to occur around licensed premises than elsewhere in that local government area. Finally, submit a list of conditions proposed by Police to be imposed upon the licence should the Application be granted.

6. Report to the Authority dated 5 October 2016 from the Compliance Branch of Liquor and Gaming NSW (LGNSW) advising that the Application was assessed using the Environment and Venue Assessment Tool (EVAT). This means that LGNSW have not performed any specific assessment of the Application.
7. Submission from Mr Stapleton dated 12 October 2016, objecting to three conditions on the list of Police proposed conditions that would restrict the provision of live entertainment on the premises, prohibit the sale of any drink containing more than 50% spirit or liquor, and prohibiting any ‘shots’ or ‘shooters’. The Applicant proposes an alternative set of conditions should the Application be granted.
8. Submission from Mr Stapleton dated 17 October 2016, contending:
  - (a) that the Premises is located “a quite significant distance from any residential development”.
  - (b) that in circumstances where a licensed premises is not proximate to residential development it is not unreasonable or unrealistic for the operator to have an expectation to trade until midnight.
  - (c) that their client has chosen not to trade beyond midnight even though there was provision made in the development approval permitting the relevant use of the premises (for planning purposes) until 1:00 am from Monday to Saturday.

### **Legislative Framework**

9. The legal requirements for the making of a valid application for a liquor licence are provided by section 40 of the Act and the *Liquor Regulation 2008* (Liquor Regulations). The power to grant an application for a new liquor licence is provided by section 45 of the Act.
10. Any person exercising functions under the Act must also have regard to the objects and considerations set out in section 3 of the Act which states:
  1. *The objects of this Act are as follows:*

- a. *to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,*
  - b. *to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,*
  - c. *to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.*
2. *In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:*
- a. *the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),*
  - b. *the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,*
  - c. *the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.*
11. Section 48(5) of the Act requires the Authority, in certain circumstances, to consider a CIS (as well as any other matter the Authority is made aware of during the application process) in order to ensure that the overall impact of the licence, authorisation or approval being considered will not be detrimental to the local or broader community.
12. An application for a new hotel licence (general bar) is a “relevant application” within the meaning of section 48(2) of the Act for which a CIS is required.
13. Section 48(5) of the Act requires that the Authority must not grant the Application unless satisfied that “the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community”.
14. In the absence of a statutory definition of “local community” and for the sake of regulatory certainty and consistency with the Authority’s long established practice, the Authority finds the relevant local community to comprise the State suburb in which the actual premises is situated. This approach is preferable to a purported local community that incorporates a number of suburbs which would, in the Authority’s view, tend to lose any genuinely “local” focus when assessing overall social impact.
15. For the purposes of this decision and consistent with its longstanding practice and its position in *Guideline 6*, the Authority is satisfied that the relevant “local community” is the community within the State suburb of Barangaroo, while the “broader community” comprises the responsible local government area, the City of Sydney.

### **Analysis of Relevant Facts**

16. The Authority is satisfied, on the basis of the Application material and CIS before the Authority, that for the purposes of section 40 of the Act, the Application has



been validly made and minimum procedural requirements with regard to the Application, CIS and community consultation have been satisfied.

17. The Authority is satisfied, for the purposes of section 45(3)(a) of the Act, that the Applicant is a fit and proper person to carry on the business of a hotel licence-general bar venue of the kind proposed in the Application material. The Authority makes this finding on the basis that no issues of concern were raised regarding the probity of the Application following consultation with relevant enforcement agencies, including Police and LGNSW.
18. The Authority is satisfied, for the purposes of section 45(3)(b) of the Act, that responsible service of alcohol practices will be in place with the commencement of licensed trading. This finding is made on the basis of the comprehensive *Plan of Management* dated 16 September 2016 provided by the Applicant.
19. The Authority is satisfied, for the purposes of section 45(3)(c) of the Act, that the required development consent is in force to permit use of the Premises as a hotel-general bar, on the basis of DA D/2016/202 issued by Council dated 25 May 2016.

#### **Social Impact – Positive Benefits**

20. The Authority is satisfied that the Applicant has demonstrated a substantial positive case for a new hotel licence-general bar premises within Barangaroo. This finding is made on the basis of the information provided about the proposal in the Application form, the CIS and additional submissions made by the Applicant.
21. The Authority is satisfied, on the basis of this material, that granting the Application will provide substantial benefits to the local and broader community who wish to participate in licensed entertainment and hospitality services at a new and modern venue. Given the local community is part of a new development area the Authority is satisfied that granting the Application will provide residents of this new community with a range of services that would otherwise not be available without leaving the suburb.
22. The Authority is satisfied, on the basis of the information provided in the CIS and further submissions by the Applicant, that the hotel general bar will provide some measure of convenience to residents of the suburb of Barangaroo by providing an avenue for residents to purchase liquor and to utilise an indoor/outdoor dining facility.
23. On balance, given the above, the new enterprise may be said to serve the “expectations, needs and aspirations” of the communities, which is a statutory object of section 3(1)(a) of the Act.
24. The Applicant has specified that part of the attraction of the Premises will be a specialist whisky bar, showcasing various brands of whisky from around the world. Some of the whiskies would be “cask strength” or “distillers limited edition” which are around 60% to 65% proof but whiskies of this kind would make up no more than 5% of the liquor on offer. The Authority accepts on the basis of this

information that granting the Application will provide some new product lines not presently available, or readily available, in licensed premises in the local community.

25. The location of the venue in a high profile harbour side development satisfies the Authority that this new general bar will likely service many visitors to the Sydney CBD in addition to city workers and residents in this new harbour side commercial and residential precinct.
26. On this basis, the Authority is satisfied that granting the Application will reasonably develop, in the public interest, the liquor industry in respect of the local community in furtherance of the statutory object in section 3(1)(b) of the Act. It will also advance the responsible development of related industries of tourism and hospitality in the local and broader community for the purposes of section 3(1)(c) of the Act.

### **Social Impact – Negative Impacts**

27. The Application proposes a new hotel general bar licensed venue with a maximum patron capacity of 185 persons. In relative terms, it is a medium scale licensed business. While its primary purpose as a hotel is the sale or supply of liquor by retail, making it a relatively higher impact licence type, the venue will also provide meals, entertainment, café and a retail clothing business, diversifying the type of licensed business on offer.
28. The development consent provides that patron capacity may not exceed 45 seated persons hosted within the premises while the capacity outside the premises is not to exceed 99. Alcohol related impact from patrons dining on the footway is mitigated by the Applicant's acceptance of a condition restricting the consumption of alcohol in that area to 10 pm daily. The Authority gives weight to the condition restricting use of the larger outdoors section of the Premises to 10 pm at the latest reducing the impact of much of the business to earlier closing than many licensed venues with standard trading in the Sydney CBD or the City of Sydney.
29. The Authority is satisfied on the information provided in the Application, CIS and submissions that Barangaroo is a newly developed area within the Sydney LGA. On the basis of available licence records, there are few liquor licences at the local community level. While there are many licensed premises in the Sydney LGA, that broader community has lower licence density rates (per 100,000 persons of population) than New South Wales as a whole for *full hotel licences, packaged liquor licences and registered club licences*.
30. LGNSW licensing records indicate that liquor licence density *per se* is not a particular concern for the local and broader community. The low but increasing number of licensed premises in the local community, combined with the approved trading hours, reduces the scope that may otherwise exist for this new licence to encourage patron migration among venues.

31. There is some cause for concern with respect to the broader community arising from the BOCSAR crime data for 2014-2015 which indicates that the Sydney LGA has significantly higher rates per 100,000 persons than NSW as a whole for incidents of *domestic violence related assault, non-domestic violence related assault, offensive behaviour and assault police*. This is a function of the great many licensed premises servicing many residents, visitors and City workers alike. The Authority does not accept the Applicant's consultant submission that crime data or licensing data for the City is irrelevant by reason that the City is exposed to an influx of visitors.
32. Nevertheless, the likely contribution made by this new business to the *broader* community will become more diffuse by reason of the high density and variety of other licensed venues across the Sydney LGA. The Authority considers it likely that this venue is more likely to directly impact the local community of Barangaroo, for which limited data is available given the recent development of this precinct.
33. Notably, the crime data for the Sydney LGA has not translated into such concern from the local authorities as to warrant objection to the licence. Police have sought extensive licence conditions to manage the risks of another hotel operating in this part of the Sydney LGA and numerous enforceable licence conditions have been accepted by the Applicant and imposed upon the licence.
34. On the basis of the ABS Socio-Economic Indexes For Areas (SEIFA) data, the broader community in the Sydney LGA ranked in the 9<sup>th</sup> decile on the Index of Relative Socio-Economic Advantage and Disadvantage (IRSAD), compared with other local government areas in the State (with a decile ranking of 10 being the most advantaged). The local community in Barangaroo is at present assessed as very disadvantaged, ranking in the 1<sup>st</sup> decile on the IRSAD compared to other State suburbs in NSW (with a decile ranking of 10 being the most advantaged). The Authority notes that the population count for Barangaroo at the time of the 2011 Census is recorded as 109, a very low figure. This is likely due to the redevelopment of Barangaroo, which is at present still under construction. This data is unlikely to reflect the post-development local community and has been given little weight.
35. The Authority accepts the Applicant's contention that the suburb of Barangaroo will likely become home to a very advantaged community once the development of the suburb is complete given the relative socio economic advantage of the surrounding suburbs and the prime position of the Barangaroo development on the Sydney foreshore.
36. The Authority has also had regard to the various operational measures detailed in the *Plan of Management* dated 16 September 2016, which form part of the Application. The Authority is satisfied, on the basis of this document, that the Applicant has implemented comprehensive and well-developed harm minimisation measures to ensure that alcohol will be served responsibly at the Premises. In this

case, the *Plan of Management* will not only serve as a business planning resource, but will be enforceable as a condition on the liquor licence.

37. The Authority also considered the submission made by the one local objector, Mr Mr Chong who contends that licensed trading hours will be contrary to the original DA and there would be significant noise disturbance from the operation of the Premises. The Authority notes that the DA approved by the City of Sydney on 25 May 2016 provides for more extensive trading hours than those approved by the Authority under this Licence. The Authority also notes that that DA imposes extensive conditions regarding management of noise generated by the Premises. The Authority is satisfied that some degree of liquor related impact upon amenity is to be expected in an inner-city location within a major new commercial and residential precinct. However, the licence will not extend beyond midnight and much of the premises must cease the service of alcohol at 10:00 pm. The Authority further accepts the Applicant's submission regarding the distance of the Premises from Mr Chong's residence.
38. In assessing the scope for negative social impact, the Authority has given weight to the numerous enforceable conditions to which this licence will be subject, including substantial harm reduction measures regarding liquor service, security, residential amenity and the mode of business that go well beyond the minimum requirements of the legislation. These conditions are likely to reduce the impact that a business of this licence type may otherwise have upon the local and broader community.

## **Conclusion**

39. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding the decision whether or not to grant the Application, as all of those required to be notified of the Application and the associated application for the MAA were provided with the opportunity to make written submissions and all submissions received were considered and helped inform this decision. The interested parties include NSW Police, the Licensee, Council, RMS, neighbouring occupiers, NSW Health and Family and Community Services and all other parties required to be consulted under the legislation.
40. Having considered together the positive benefits and negative impacts that the Authority is satisfied are likely to flow from granting the Application, the Authority is satisfied that the overall social impact of granting this licence would not be detrimental to the well-being of these local and broader communities.
41. The Authority is also satisfied, on the basis of the rationale for the MAA provided in the Application and CIS (and noting that no gambling services will be provided by the new hotel-general bar licensed business) that granting the MAA with respect to the entire Premises is in the public interest.
42. The Application is granted pursuant to section 45 of the Act. The MAA is granted pursuant to section 121 of the Act.

43. In making these decisions decision the Authority has had regard to all of the statutory objects prescribed by section 3(1) of the Act and all of the considerations to which it must have regard under section 3(2) – including (a) the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour) (b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor (c) the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

Decision Date: 26 October 2016



**Chairperson**

For and on behalf of the **Independent Liquor & Gaming Authority**

**Important Information:**

In accordance with section 13A of the *Gaming and Liquor Administration Act 2007* a relevant person (the Applicant or a person who was required to be notified of the prescribed Application and who made a submission to the Authority or the Secretary in respect of the prescribed Application) who is aggrieved by this decision may apply to NCAT for an administrative review under the *Administrative Decisions Review Act 1997*.

An application to NCAT must be made within 28 days of notice of this decision being published in the liquor and gaming website <https://www.liquorandgaming.justice.nsw.gov.au/Pages/ilga/decisions-of-interest/decisions-of-interest.aspx> and be accompanied by the fee prescribed by the regulations.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney. The NCAT website is at <http://www.ncat.nsw.gov.au/>

## SCHEDULE

### Material Before The Authority

1. Submission from the Department of Community Services dated 19 May 2016 advising the Department would not be providing input on the Application.
2. Submission from Mr Christopher Carpenter, City of Sydney (Council), dated 17 June 2016, advising that Council raises no concerns with the Application pending lodgement of a development application. Development application D/2016/202 was approved on 25 May 2016 permitting the fit out of a new commercial premise to operate as a licensed bar and retail store. The hours are restricted, for planning purposes, to between 7.00am and 11.00pm from Monday to Sunday indoors and between 10.00am and 8.00 pm from Monday to Sunday outdoors, save for that Applicant may operate indoors between 7:00am and 1:00am and between 7:00am and 10:00pm outdoors for a trial period of 1 year, from the date of Occupation Certificate.
3. Submission from Roads and Maritime Services (RMS) dated 17 June 2016 advising that during 2014 there were 24 alcohol-related crashes resulting in 13 casualties within the City of Sydney LGA. RMS do not object to the Application but recommend that the licensee maintain awareness of alcohol-related issues by attending the liquor accord and that public education material be supported.
4. Community Impact Assessment prepared for the Applicant by John Coady Consulting Pty limited, Town-planning and Traffic Consultants, dated 4 July 2016. The document includes the following contentions:
  - (a) The Barangaroo Redevelopment site is specifically excluded from the Sydney CBD Entertainment Precinct such that the "Shirt Bar" Application is not subject to the "Liquor licence Freeze" or "6.30am lockout and 3.00am Last Drinks" legislation.
  - (b) The grant of the Application is unlikely to be detrimental to the well-being of the local or broader community because the site is located within a new development area, and the existing use is being replaced with a totally different style. The development will generate patronage for the Premises and will not need to attract patronage from other areas. Historical demographic data for Barangaroo will not be relevant to assessing this Application. There was minimal community response to notification of the Application and the concept of licence density is "irrelevant" to this Application by reason that the Barangaroo development area will accommodate intra state, inter- state and international visitors:
  - (c) The Premises will provide 40 seats and 5 bar stools internally and 99 seats externally, with a total capacity of 185 persons.
  - (d) Research on the relationship between outlet density and social harm as a consequence of alcohol consumption concludes (mostly) that increased outlet

density is predictive of increased levels of alcohol-related harm. However, this is not always the case because outlet density is expressed as the ratio of the number of licensed premises to the residential population in the local community. That ratio is distorted where the residential population of the local area represents only a relatively small proportion of patrons of the licensed premises, with the local area workforce, day trippers and tourists comprising a substantial proportion of persons in the local community.

- (e) The responsible consumption of alcohol is a lawful, acceptable recreational activity which provides considerable social benefit to many people in the community. Outlets like the Shirt Bar have the potential for significant positive social impact in the way they serve this legitimate community demand.
5. Hotel Licence Application Form lodged on 7 July 2016. Material accompanying the Application included a Plan of Management dated 17 February 2016 (an amended Plan was subsequently submitted dated 16 September 2016); Diagrams of the Premises; Notice of Appointment of Approved Manager; ASIC Organisation Extract for Shirt Bar Barangaroo as at 17 June 2016; DA number D/2016/202 dated 25 May 2016; CIS dated 5 July 2016 and Community Impact Assessment dated 4 July 2016.
6. CIS dated 5 July 2016 with supporting material, lodged with the Application on 7 July 2016. Briefly, the Applicant makes the following contentions on the overall social impact of granting the Application:
- (a) The hotel general bar will have a capacity for 185 patrons and will include both indoor and outdoor areas. The outdoor dining area forms part of the leased area.
  - (b) Shirt Bar will comprise a bar, restaurant, café and retail clothing area. This is a unique concept and the clothing area of the Premises will be included within the proposed licenced area.
  - (c) It is proposed that the Premises will provide live entertainment occasionally for an event but not to promote dancing.
  - (d) The 6-hour closure period sought is the standard period between 4:00am and 10:00am each day. The hotel general bar will be open for trade from 10:00am each day of the week.
  - (e) Granting the Application will provide the following public interest benefits:
    - i) The Premises will be the only one within Barangaroo to provide the convenience of being able to purchase clothing while enjoying the bar and dining facilities.
    - ii) The local community will have available to them a unique licensed facility providing a range of services including a bar, dining facilities and retail clothing store.

- iii) The proposed facility will meet the needs, demands and expectations of employees and visitors of Barangaroo.
  - iv) The granting of the Application will result in the introduction of specialist whisky bar in the suburb.
7. The Applicant makes the following submissions on the negative community impacts from the proposal:
- i) RSA practices, including adherence to the *Plan of Management*, RSA training and certification for staff, and identification requirements will be implemented to prevent supply, or secondary supply, to persons under the age of 18;
  - ii) In relation to security and prevention of disturbance, the Premises will include CCTV cameras and security guards will be on duty from 5:00 pm.
  - iii) No objection to the Application was received from any of the Aboriginal and Torres Strait Islander organisations that were notified.
  - iv) The Applicant will comply with the requests made by Transport RMS in their submission. These include that the Applicant attend the local Liquor Accord, support and display public education material focused on drink drive and pedestrian alcohol issues, and installation of an approved breath testing device.
  - v) The Applicant advised no adverse response from Aboriginal community representatives, Department of Health or neighbouring residents.
8. Submission from the Applicant's solicitor Mr Timothy Calvert of JDK Legal dated 7 July 2016.
9. Submission from the Applicant's solicitor, Mr Stapleton, dated 19 September 2016, including no objection to proposed conditions and additional information relating to the Application, Premises, and proposed business.
10. Submission from Senior Constable D. Marshall and Leading Senior Constable Juan Maruri, Sydney City Local Area Command (LAC) of NSW Police (Police), dated 30 September 2016. Police do not object to the Application and includes a list of conditions that Police request be imposed upon the license.
11. Submission from the Applicant's solicitor, Mr Stapleton, dated 12 October 2016, objecting to the imposition of certain conditions on the Licence.
12. Submission from the Applicant's solicitor, Mr Stapleton, dated 17 October 2016, containing additional information relating to the Application.
13. BOCSAR Crime Maps based upon data from July 2015 to June 2016 detailing hotspots for the concentration of offences near the location of the Premises which is publically available on the BOCSAR website. These maps identify the boundaries of the Barangaroo Precinct. This data indicates that the Barangaroo Precinct contains:



- (a) *Low and medium density hotspots* for incidents of *domestic assault*
  - (b) *Low, medium and high density hotspots* for incidents of *non-domestic assault*
  - (c) *Low, medium and high density hotspots* for incidents of *malicious damage to property*.
14. Liquor licensing records for the Sydney LGA. No data is presently available for the suburb of Barangaroo.
15. Liquor licence density data derived from licensing records that are publicly available from LGNSW indicating that the Sydney LGA as a whole recorded:
- (a) a rate of **5.90** *full hotel licences* per 100,000 persons, which is well below the NSW state wide rate of **30.36**.
  - (b) a rate of **7.67** *packaged liquor licences* per 100,000 persons, which is well below the NSW state wide rate of **32.85**.
  - (c) a rate of **2.95** *registered club licences* per 100,000 persons, significantly lower than the NSW state wide rate of **20.48**.
  - (d) a rate of **6.49** *on-premises licences* per 100,000 persons, significantly below the NSW state wide rate of **121.31**.
16. Report on *NSW Recorded Crime Statistics July 2010 – June 2015* obtained from published BOCSAR sources, for July 2014 – June 2015. This data indicates that:
- (a) the rate of *alcohol related domestic violence related assault* incidents across the Sydney LGA was **213.3** per 100,000 persons, well above the New South Wales rate of **122.6** per 100,000 persons;
  - (b) the rate of *alcohol related non-domestic violence related assault* incidents across the Sydney LGA was **796.6** per 100,000 persons, significantly above the State-wide rate of **144** per 100,000 persons;
  - (c) the rate of *alcohol related offensive behaviour* offences recorded across the Sydney LGA was **525.4** per 100,000 persons, substantially above the State-wide rate of **88.2** per 100,000 persons;
  - (d) the rate of *alcohol related assault Police* incidents recorded across the Sydney LGA was **85.2** per 100,000 persons, well above the State-wide rate of **18.2** per 100,000 persons.
17. ABS SEIFA data sourced from the 2011 Census for the state suburb of Barangaroo and the Sydney LGA.